

II. The Claims Patentably Distinguish Over The Applied Prior Art

Avar discloses an article of footwear having a sole component that includes four generally cylindrical support elements or columns 108a-108d. An o-ring indentation 124 extends at least partially around an exterior surface of each column 108a-108d, and an o-ring 126 is received within the o-ring indentation 124. More specifically, the specification of Avar states that "[o]-ring indentation 124a is a horizontal indentation in vertical surface 118a that extends around a majority of the circumference of column 108a....Received in o-ring indentation 124a is o-ring 126a..." (column 7, lines 50-52 and 59). Similar recitations are made for columns 108b-108d. Accordingly, the bands that encircle the exterior surface of each column 108a-108d are disclosed as having the structure of an o-ring, which is generally recognized by one skilled in the relevant art as having a circular cross-section.

The rejection of claims 1-5, 11-14, and 17-19 references Avar as disclosing a structure that facilitates movable positioning of the band with respect to the exterior surface. More particularly, the rejections refer to Figure 3 and state that the band is shown as extending flatly outward and the portion extending outward is a flange on the band. Furthermore, the rejection states that the structure is attached to the band and the structure is a flange extending from the band. This interpretation of Figure 3 does not account for the totality of the teaching in Avar. As discussed above, the band is disclosed in the specification of Avar as having the structure of an o-ring. It is generally impermissible, however, for an Examiner to rely upon selected elements from any one reference in support of a given position to the exclusion of other parts of the reference that are necessary for a full appreciation of what the reference fairly suggests to one skilled in the art. Accordingly, Applicants submit that Avar should be interpreted in accordance with the unambiguous teaching of the specification, which states the band has the structure of an o-ring.

The rejection of claims 1-5, 11-14, and 17-19 also states that the flange is proportioned and positioned to allow the user to grip the flange. It is well established, however, that patent drawings do not define the precise proportions of the elements. The *description* of the article pictured can be relied on, in combination with the drawings, for what they would reasonably teach one of ordinary skill in the art. See MPEP § 2125. Accordingly, Applicants again submit